



**PODIATRIC MEDICAL BOARD OF CALIFORNIA  
BOARD MEETING  
October 19, 2023**

# **VC 1-2**

**SUBJECT: LEGISLATIVE PROGRAM REPORT**

**ACTION: RECEIVE AND FILE STATUS REPORT**

**Committee Members:**

Daniel Lee, DPM, PhD, FACFAS  
Samantha Chang

This report summarizes legislative and regulatory matters that have been introduced during this legislative session and that may significantly impact the Podiatric Medical Board of California (PMBC).

There are three bills that may impact PMBC this legislative cycle.

**1. AB 826 (Chen) Renewals: Enrolled 9.7.23**

The Podiatric Medical Board voted on 3.12.21 to delete BPC 2486(a-h) and to allow DPMs to renew their license by completing 50 CMEs, remaining free from disciplinary actions, and paying fees. AB 826 was passed to eliminate outdated requirements that were self-imposed over 25 years ago and that could have been challenged as a restraint of trade. PMBC was the sponsor of this bill. For details please refer to **Attachment A (1-7)**.

**2. AB 834 (Irwin): Enrolled 9.8.23**

The California Podiatric Medical Association sponsored bill that would eliminate the requirement that DPMs could not hold a majority interest in certain partnerships. For details please review **Attachment B (1-2)**.

**3. SB 544 (Laird) Bagley-Keene Open Meetings Act Teleconferencing: Enrolled 9.8.23**

PMBC has conducted virtual board meetings since the Covid-19 threatened the health of all Californians. On January 1, 2024, these virtual options will have additional requirements. Options include requiring a quorum of the full board to meet in one location as well as allowing virtual attendance where the members of the public are allowed to participate. Please feel free to review Attachment C (1-3). Please note that Att. C-3 provides a summary of all matters that will impact PMBC.

#### **4. Regulatory Program Update – 2023: Disciplinary Guidelines**

This regulatory matter is currently being prioritized by PMBC and regulatory legal counsel at the Department of Consumer Affairs (DCA). It is expected that this regulation will not be completed until 2025.

#### **ATTACHMENTS:**

##### **ATTACHMENT A: AB 826 (A1-A7)**

Att A-1 AB 826 PMBC supports deletion of BPC 2496 (a-h) summary

Att A-2 AB 826 Text Final

Att A-3 AB 826 – CME PMBC Text

Att A-4 AB 826 BPC 2496 Ltr of Support PMBC Sponsor

Att A-5 AB 826 Senate Floor BPC & E Analysis

Att A-6 AB 826 Senate Floor Analysis

Att A-7 AB 826 History

##### **ATTACHMENT B: AB 834 – TEXT & ANALYSIS**

Att B-1 AB 834 – Text Final

Att B-2 AB 834 - Assembly Floor Analysis

##### **ATTACHMENT C: SB 544**

C-1 SB 544 – Text Final

C-2 SB 544 – Senate Analysis

C-3 SB 544 – Summary for DCA Boards

Prepared by: Kathleen Cooper

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Kathleen Cooper, Legislative Analyst

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Brian Naslund, Executive Officer

## AB-826 Podiatric medicine: continuing education.(2023-2024)

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

## ASSEMBLY BILL

NO. 826

Introduced by Assembly Member Chen

February 13, 2023

An act to amend Section 2496 of the Business and Professions Code, relating to healing arts.

## LEGISLATIVE COUNSEL'S DIGEST

AB 826, as introduced, Chen. **Podiatric** medicine: continuing education.

Existing law, the Medical Practice Act, establishes within the Department of Consumer Affairs the **Podiatric** Medical Board of California to license and regulate the practice of **podiatric** medicine. Existing law requires the board to adopt and administer regulations requiring continuing education of doctors of **podiatric** medicine and requires those licensees to demonstrate satisfaction of continuing education requirements and one of specified listed requirements at each license renewal.

This bill would delete the requirement that licensees demonstrate satisfaction of the continuing education requirements and one of specified listed requirements at each license renewal.

## DIGEST KEY

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

## BILL TEXT

## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

## SECTION 1.

Section 2496 of the Business and Professions Code is amended to read:

**2496.**

In order to ensure the continuing competence of persons licensed to practice **podiatric** medicine, the board shall adopt and administer regulations requiring continuing education of those licensees. ~~The board shall require those licensees to demonstrate satisfaction of the continuing education requirements and one of the following requirements at each license renewal:~~

- ~~(a) Passage of an examination administered by the board within the past 10 years.~~
- ~~(b) Passage of an examination administered by an approved specialty certifying board within the past 10 years.~~
- ~~(c) Current diplomate, board-eligible, or board-qualified status granted by an approved specialty certifying board within the past 10 years.~~
- ~~(d) Recertification of current status by an approved specialty certifying board within the past 10 years.~~
- ~~(e) Successful completion of an approved residency or fellowship program within the past 10 years.~~
- ~~(f) Granting or renewal of current staff privileges within the past five years by a health care facility that is licensed, certified, accredited, conducted, maintained, operated, or otherwise approved by an agency of the federal or state government or an organization approved by the Medical Board of California.~~
- ~~(g) Successful completion within the past five years of an extended course of study approved by the board.~~
- ~~(h) Passage within the past 10 years of Part III of the examination administered by the National Board of **Podiatric** Medical Examiners.~~



## **PMBC: MODERNIZATION OF THE DPM LICENSE RENEWALS**

### **The Board supports updating and modernizing its laws, and this will be achieved by deleting BPC 2496(a-h):**

The Board's Mission is to protect the public and regulate DPMs in California and it is also required to maintain laws that are current. By the deletion of BPC 2496 (a-h) the Board will meet its Mission and remain up-to-date. DPMs in California will no longer be required to meet arbitrary and burdensome renewal requirements that are not in line with MBC or other podiatric medical boards across the United States.

### **The Board supports uniformity in renewal requirements and will achieve this through the deletion of BPC 2496(a-h):**

DPMs are trained similarly to MDs, and DOs, with comparable curriculum being taught to each medical degree, (with the exception of obstetrics and gynecology). BPC 2496(a-h) became effective in 1999 when some DPMs were surgically trained, and others were not, dependent upon their year of graduation from podiatric medical school. The concerns from 25 years ago are no longer present and the Board no longer supports the additional renewal requirements. Today, DPM graduates of podiatric medical schools are surgically trained. (See History of the Board).\*

### **The Board voted to have BPC 2496(a-h) deleted:**

On March 12, 2021, the Board voted to delete the additional requirements for renewal as stated in BPC 2496(a-h) and to maintain the other renewal requirements which are completing 50 CMEs, remaining free from disciplinary actions, and paying renewal fees. The current additional renewal requirements may act as a barrier to applicants to the Board. It is an anomaly among other podiatric medical boards across the United States and MBC. The Board has concerns that its unique and burdensome renewal requirements are superfluous could discourage applicants to the Board. (See Board Meeting, 3.12.21 on Youtube or click link below). \*\*

#### **\* History of the Podiatric Board in California:**

- 1926: Doctor of Surgical Chiropody license provided by MBC
- 1957: Chiropody Examining Committee under jurisdiction of MBC
- 1983: Educational advancement in podiatric medical education ensured that graduates had surgical training.  
 (If graduating **prior** to 1983 **not** assumed to be surgically trained (resulting in two different types of podiatric licensure for DPMs in California))
- 1998: Due to the disparity in training dependent upon the year of graduation from podiatric medical school, and to assist with professional acceptance and hospital privileging, "continuing competence" was adopted in BPC 2496 (a-h)
- 2018: PMBC was removed from within the jurisdiction of MBC. The requirement to prove surgical competency was eliminated because the active DPM licensee base was comprised of essentially graduates from podiatric medical school after 1983. (SB 798, 2017)
- 2021: Russell Stoner, Executive at the Federation of Podiatric Medical Boards testified before the Board (3.12.21) informing the Board that California remains unique among all the podiatric boards across the United States with significant additional renewal requirements that have been described as onerous and superfluous and possibly a restraint on trade.
- 2023: The Board is prepared to work with the legislature and related entities to eliminate potential challenges to the licensure renewal requirements that reasonably could be viewed as arbitrary, capricious, and unfairly overly burdensome without a basis in science or fact.

#### **\*\* Federation of Podiatric Medical Boards presented by Russell Stoner, Executive Director.**

Search Youtube or follow link: [PMBC 3.12.21 Bd Mtg Discussion BPC 2496 - at appx 17:00.](#)

Date of Hearing: March 28, 2023

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Marc Berman, Chair

AB 826 (Chen) – As Introduced February 13, 2023

**SUBJECT:** Podiatric medicine: continuing education.

**SUMMARY:** Deletes the requirement that licensed doctors of podiatric medicine (DPMs), at each license renewal, satisfy one of the eight continuing competence requirements listed under the Medical Practice Act.

**EXISTING LAW:**

- 1) Regulates the practice of podiatric medicine under the Medical Practice Act. (Business and Professions Code (BPC) §§ 2460-2499.8)
- 2) Establishes the Podiatric Medical Board of California (PMBC) within the Department of Consumer Affairs to license DPMs and administer and enforce the podiatric medicine provisions of the Medical Practice Act. (BPC §§ 2460-2471)
- 3) Defines “podiatric medicine” as the diagnosis, medical, surgical, mechanical, manipulative, and electrical treatment of the human foot, including the ankle and tendons that insert into the foot, and the nonsurgical treatment of the muscles and tendons of the leg governing the functions of the foot. (BPC § 2472(b))
- 4) Requires the PMBC to adopt and administer regulations requiring continuing education of DPMs. (BPC § 2496)
- 5) Requires DPMs to complete 50 hours of PMBC-approved continuing education, including a minimum of 12 hours in subjects related to the lower extremity muscular-skeletal system. (California Code of Regulations, Title 16, § 1399.669(a))
- 6) Requires the PMBC to require DPMs to demonstrate compliance with the continuing education requirements and one of eight additionally listed requirements at each license renewal. (BPC §2496(a)-(h))
  - a) Passage of an examination administered by the PMBC within the past 10 years. (BPC § 2496(a))
  - b) Passage of an examination administered by an approved specialty certifying board within the past 10 years. (BPC § 2496(b))
  - c) Current diplomate, board-eligible, or board-qualified status granted by an approved specialty certifying board within the past 10 years. (BPC § 2496(c))
  - d) Recertification of current status by an approved specialty certifying board within the past 10 years. (BPC § 2496(d))
  - e) Successful completion of an approved residency or fellowship program within the past 10 years. (BPC § 2496(e))

- f) Granting or renewal of current staff privileges within the past five years by a health care facility that is licensed, certified, accredited, conducted, maintained, operated, or otherwise approved by an agency of the federal or state government or an organization approved by the Medical Board of California. (BPC § 2496(f))
- g) Successful completion within the past five years of an extended course of study approved by the PMBC. (BPC § 2496(g))
- h) Passage within the past 10 years of Part III of the examination administered by the National Board of Podiatric Medical Examiners. (BPC § 2496(h))

**THIS BILL:**

- 1) Deletes the requirement that the PBMC require DPMs to demonstrate completion of one of the continuing competence license renewal requirements that are listed in addition to the continuing education requirement.

**FISCAL EFFECT:** Unknown. This bill is keyed fiscal by the Legislative Counsel.

**COMMENTS:**

**Purpose.** This bill is sponsored by the *Podiatric Medical Board of California*. According to the author, “[This bill] will modernize renewal requirements for Doctors of Podiatric Medicine (DPM) by standardizing the curriculum taught to each medical degree. Business and Professions Code (a-h) is a code that is considered to be outdated for this profession and burdensome for applicants to the Podiatric Medical Board of California. This code went into effect in 1999 when some DPMs were surgically trained, and others were not, all of which was dependent on when they graduated from podiatric medical school. Deleting this code, which is what this bill does, is a needed update to this profession which has been done across the country.”

**Background.** DPMs are healthcare providers who practice medicine on the human foot, including the ankle and tendons that insert into the foot. They may also provide nonsurgical and limited surgical treatment of the muscles and tendons of the leg governing the functions of the foot, including wound care for ulcers.

DPMs are licensed and regulated by the PMBC and are required to renew their licenses every two years. At the time of renewal, DPMs must complete 50 hours of PMBC-approved continuing education coursework, including a minimum of 12 hours in subjects related to the lower extremity muscular-skeletal system. The goal of the continuing education requirements, like in other professions, is to support ongoing competence as the podiatric medical field develops.

*Expanded Continuing Competence.* After 1998, renewing DPMs were also required to complete one of several additional requirements, currently called “continuing competence pathways” in the PMBC’s regulations. According to the PMBC, the pathways were part of a unique pilot program to address disparities in podiatric training, assist with professional acceptance, and hospital privileging.

The PMBC first recommended the expanded requirements to the Joint Legislative Sunset Review Committee (JLSRC) during its 1996-97 Sunset Review. At the time, committee staff recommended supporting the PMBC's recommendation in concept, but that the PMBC should indicate what the impact would be on current licensees attempting to fulfill the new requirements before any proposal was adopted. The JLSRC adopted the recommendation, and the proposal was included in the 1998 Sunset Review bill.

The seven initial requirements were:

- 1) Passage of an examination administered by the PMBC within the past 10 years.
- 2) Passage of an examination administered by an approved specialty certifying board within the past 10 years.
- 3) Current diplomate, board-eligible, or board-qualified status granted by an approved specialty certifying board within the past 10 years.
- 4) Recertification of current status by an approved specialty certifying board within the past 10 years.
- 5) Successful completion of an approved residency or fellowship program within the past 10 years.
- 6) Granting or renewal of current staff privileges within the past five years by a health care facility that is licensed, certified, accredited, conducted, maintained, operated, or otherwise approved by an agency of the federal or state government or an organization approved by the Medical Board of California.
- 7) Successful completion of an approved course of study of at least four weeks' duration at an approved school within the past five years.

*Difficulties with Expanded Competency Pathways.* The issue was raised again during the JLSRC 2001-02 Sunset Review of the PMBC. At the time, the PMBC continued to support the new competency requirements, however, committee staff noted that some licensees were having difficulty meeting the new requirements.

DPMs who had been licensed for more than 10 years, had no peer-reviewed hospital privileges, and were not board certified, were required to either take the PMBC's licensing examination or complete a special training course sponsored by a PMBC-approved school. However, the examination was the only actual choice for those licensees. While the PMBC had approved a program at two different institutions, the PMBC noted that administrative transitions at both of those institutions had hampered the program's development.

As a result, the JLSRC recommended that the PMBC's continuing competency program be refined to provide additional pathways and ease compliance for those licensees. The resulting change in the 2002 Sunset Review bill was the eighth pathway in current law: passage within the past 10 years of Part III of the examination administered by the National Board of Podiatric Medical Examiners.

At the time, the PMBC's eventual goal was still to eventually tighten the pathways as licensees grew accustomed to the new requirements, but the new pathway was intended to at least provide the PMBC an alternative to waiving the requirement or terminating the licenses of older practitioners.

*Ongoing Need for Continuing Competency Pathways.* On March 12, 2021, the PMBC voted to delete the additional requirements for renewal but maintain the 50 hours of continuing education requirement. According to the PMBC, "When [the requirements] became effective in 1999, some DPMs were surgically trained, and others were not, dependent upon their year of graduation from podiatric medical school.... The concerns from 25 years ago are no longer present and the Podiatric Medical Board of California no longer supports the additional renewal requirements.... The Board's discussion included the fact that these additional renewal requirements could be viewed as a restraint on trade and the Board would like to modernize its renewal requirements to remain consistent with other podiatric medical boards and the other healthcare boards in California."

**Prior Related Legislation.** SB 1236 (Price), Chapter 332, Statutes of 2012, among numerous other changes related to Senate Committee on Business and Professions Sunset Review recommendations, deleted a redundant reference to the Administrative Procedures Act in the section amended under this bill.

SB 1955 (Figueroa), Chapter 1150, Statutes of 2002, among numerous other changes related to the JLSRC Sunset Review recommendations, added the National Board of Podiatric Medical Examiners competency pathway and amended the course of study competency pathway by replacing the requirement that the course be at least four weeks duration with the requirement that the course be an "extended" course.

SB 1981 (Greene), Chapter 736, Statutes of 1998, among numerous other changes related to the JLSRC Sunset Review Hearing recommendations, first added the continuing competence requirements being deleted under this bill.

#### **ARGUMENTS IN SUPPORT:**

The *California Podiatric Medical Association* (co-sponsor) writes in support, "When these requirements became effective in 1999, some DPMs were surgically trained, and others were not, dependent upon their year of graduation from podiatric medical school. At the time, the Board adopted additional renewal requirements beyond those that still exist today. However, with the advancements in podiatric training and education, these concerns from 25 years ago are no longer present. Efforts to advance podiatric training and education include a standardization of podiatric residencies which now require mandatory, three-year, comprehensive programs and that all DPMs are surgically trained. The current training of DPMs is comparable to that of medicine's 4-4-3 model – four years of undergraduate education, followed by four years of podiatric medical school and three years of residency training, with an optional fellowship year."

#### **ARGUMENTS IN OPPOSITION:**

None on file



**REGISTERED SUPPORT:**

California Board of Podiatric Medicine (sponsor)  
California Podiatric Medical Association (co-sponsor)

**REGISTERED OPPOSITION:**

None on file

**Analysis Prepared by:** Vincent Chee / B. & P. / (916) 319-3301

- a) **DPM Licensing Requirements.** DPMs are licensed and regulated by the PMBC and are required by state law to renew their licenses every two years. At the time of renewal, DPMs must complete 50 hours of PMBC-approved continuing education coursework, including a minimum of 12 hours in subjects related to the lower extremity muscular-skeletal system. The goal of the continuing education requirements is to support ongoing competence as podiatric medicine develops.

- b) **Continuing Competence Pathways.** After 1998, renewing DPMs were required to complete one of seven additional requirements, currently called “continuing competence pathways” in the PMBC’s regulations. According to the PMBC, the pathways were part of a unique pilot program to address disparities in podiatric training and assist with professional acceptance and hospital privileging. The PMBC had recommended the additional requirements during the PMBC’s 1996-97 Sunset Review. The Joint Legislative Sunset Review Committee (JLSRC) adopted the recommendation, and the proposal was included in the 1998 Sunset Review bill. The JLSRC added an eighth pathway in 2002.

In 2021, the PMBC voted to delete the additional requirements for renewal but maintain the 50 hours of continuing education requirement. According to the PMBC:

When [the requirements] became effective in 1999, some DPMs were surgically trained, and others were not, dependent upon their year of graduation from podiatric medical school...The concerns from 25 years ago are no longer present and the [PMBC] no longer supports the additional renewal requirements...The [PMBC’s] discussion included the fact that these additional renewal requirements could be viewed as a restraint on trade and the [PMBC] would like to modernize its renewal requirements to remain consistent with other podiatric medical boards and the other healthcare boards in California.”

**Analysis Prepared by:** Allegra Kim / APPR. / (916) 319-2081



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March 16, 2023

Marc Berman, Chair  
Assembly Business and Professions Committee, Chair  
Legislative Office Building, Ste 379  
Sacramento, CA 95814

**RE: AB 826 (Chen) - PMBC - MODERNIZATION OF THE DPM LICENSE RENEWALS - Sponsor**

Dear Honorable Marc Berman,

The Podiatric Medical Board of California (PMBC) respectfully requests your support of AB 826 (Chen), which would remove outdated licensing requirements imposed on doctors of podiatric medicine (DPM's)

The Podiatric Medical Board of California (PMBC) is the third medical board in California along with the Medical Board of California and the Osteopathic Board of California. The profession has advanced throughout the last few decades now receiving the almost identical education as MDs and DOs (no ob/gyn for DPMs). When BPC 2496(a-h) became effective in 1999, some DPMs were surgically trained, and others were not, dependent upon their year of graduation from podiatric medical school. At the time, the Board adopted additional renewal requirements beyond those that still exist today: DPMs are required to complete 50 CMEs, remain free from disciplinary action, and pay renewal fees. PMBC is seeking to delete the current additional renewal requirements that were self-imposed when there was dual licensure for California DPMs.

The concerns from 25 years ago are no longer present and the Podiatric Medical Board of California no longer supports the additional renewal requirements. Based on the issue being presented to the Board on 3.12.21, the Board voted to delete these additional requirements. The Board's discussion included the fact that these additional renewal requirements could be viewed as a restraint on trade and the Board would like to modernize its renewal requirements to remain consistent with other podiatric medical boards and the other healthcare boards in California.

PMBC is obligated to remain current with the podiatric profession and its advancements. The PMBC Board voted to have the additional renewal requirements deleted over two years ago, but it was not possible to address this during the Covid-19 period so we are attempting to achieve the Board's mandate this year.

Therefore, PMBC is pleased to sponsor AB 826 and ask for your aye vote.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brian Naslund".

Brian Naslund,  
Executive Officer

CC: The Honorable Phil Chen  
Members of the Assembly Business and Professions Committee

**AB-834 Physicians and surgeons and doctors of podiatric medicine: professional partnerships.**(2023-2024)

AMENDED IN ASSEMBLY MARCH 29, 2023

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

**ASSEMBLY BILL****NO. 834****Introduced by Assembly Member Irwin****February 14, 2023**

An act to amend Section 2416 of the Business and Professions Code, relating to healing arts.

**LEGISLATIVE COUNSEL'S DIGEST**AB 834, as amended, Irwin. Physicians and surgeons and doctors of **podiatric** medicine: professional partnerships.

Existing law, the Medical Practice Act, ~~authorizes~~ *establishes the Medical Board of California for the licensing, regulation, and discipline of physicians and surgeons. Existing law establishes the California Board of Podiatric Medicine within the Medical Board of California for the licensing, regulation, and discipline of podiatrists. Existing law, the Osteopathic Act, enacted by an initiative measure, establishes the Osteopathic Medical Board of California for the licensing and regulation of osteopathic physicians and surgeons and requires the Osteopathic Medical Board of California to enforce the Medical Practice Act with respect to its licensees. Existing law makes a violation of specified provisions of the Medical Practice Act a crime.*

*The Medical Practice Act authorizes* physicians and surgeons and doctors of **podiatric** medicine to establish a professional partnership *or group* that includes both physicians and surgeons and doctors of **podiatric** medicine if a majority of the partners and partnership interests in the professional partnership are physicians and surgeons or osteopathic physicians and surgeons. Existing law prohibits a partner who is not a physician and surgeon from practicing in the partnership or voting on partnership matters related to the practice of medicine that are outside the partner's scope of practice.

This bill would ~~delete the requirement that~~ *revise the above-described provisions to allow* a majority of the partners and partnership interests *to* be physicians and ~~surgeons or surgeons~~, osteopathic physicians and ~~surgeons~~, *surgeons, or doctors of podiatric medicine*. The bill would ~~also delete the prohibitions on~~ *additionally prohibit* a partner who is not a ~~physician and surgeon, doctor of podiatric medicine~~ *from practicing in the partnership or voting on partnership matters related to the practice of podiatric medicine that are outside the partner's scope of practice. By imposing a new requirement under the Medical Practice Act, the violation of which is a crime, the bill would impose a state-mandated local program. The bill would correct an erroneous cross-reference* and make other nonsubstantive changes.

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

**DIGEST KEY**Vote: majority Appropriation: no Fiscal Committee: yes Local Program: ~~no~~yes

**BILL TEXT**

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.**

*Section 2416 of the Business and Professions Code is amended to read:*

**2416.**

Physicians and surgeons and doctors of **podiatric** medicine may conduct their professional practices in a partnership or group of ~~physician physicians~~ and surgeons or a partnership or group of doctors of **podiatric** medicine, respectively. ~~Physician Physicians~~ and surgeons and doctors of **podiatric** medicine may establish a professional partnership that includes both physician and surgeons and doctors of **podiatric** medicine, if both of the following conditions are satisfied:

(a) A majority of the partners and partnership interests in the professional partnership are ~~physician and surgeons or osteopathic physician and surgeons~~ *physicians and surgeons, osteopathic physicians and surgeons, or doctors of **podiatric** medicine.*

(b) Notwithstanding Chapter ~~2 5~~ (commencing with Section ~~15004~~ *16100*) of Title ~~4 2~~ of the Corporations Code, a partner who is not a physician and surgeon *or a doctor of **podiatric** medicine* shall not practice in the partnership or vote on partnership matters related to the practice of ~~medicine medicine or podiatric medicine, respectively~~, that are outside ~~his or her~~ *the partner's* scope of practice. All partners may vote on general administrative, management, and business matters.

**SEC. 2.**

*No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*

~~SECTION 1. Section 2416 of the Business and Professions Code is amended to read:~~

~~2416.~~

~~(a) Physicians and surgeons and doctors of **podiatric** medicine may conduct their professional practices in a partnership or group of physicians and surgeons or a partnership or group of doctors of **podiatric** medicine, respectively.~~

~~(b) Physicians and surgeons and doctors of **podiatric** medicine may establish a professional partnership that includes both physicians and surgeons and doctors of **podiatric** medicine.~~

Date of Hearing: March 28, 2023

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Marc Berman, Chair

AB 834 (Irwin) – As Introduced February 14, 2023

**SUBJECT:** Physicians and surgeons and doctors of podiatric medicine: professional partnerships.

**SUMMARY:** Authorizes doctors of podiatric medicine (DPMs) to own an equal or majority interest in a professional partnership with physicians.

**EXISTING LAW:**

- 1) Regulates the practice of medicine, including podiatric medicine, under the Medical Practice Act. (BPC §§ 2460-2499.8)
- 2) Prohibits the practice of medicine, including using drugs or devices, severing or penetrating tissue, or using any other method in the treatment of diseases, injuries, deformities, or other physical and mental conditions without a physician and surgeon or osteopathic physician and surgeon license, unless authorized by a license granted under some other law. (BPC §§ 2051, 2052, 2453)
- 3) Defines “podiatric medicine” as the diagnosis, medical, surgical, mechanical, manipulative, and electrical treatment of the human foot, including the ankle and tendons that insert into the foot, and the nonsurgical treatment of the muscles and tendons of the leg governing the functions of the foot. (BPC § 2472(b))
- 4) Authorizes the practice of podiatric medicine if licensed as a DPM. (BPC § 2472(a))
- 5) Establishes the general rules and requirements related to business partnerships under the Uniform Partnership Act of 1994. (Corporations Code (Corp) §§ 16100-16962)
- 6) Defines “partnership” as an association of two or more persons to carry on a business for profit as co-owners. (CORP § 16101(a)(9))
- 7) Defines “partnership agreement” as the agreement, whether written, oral, or implied, among the partners concerning the partnership, including amendments to the partnership agreement. (CORP § 16101(a)(10))
- 8) Specifies that relations among the partners and between the partners and the partnership are governed by the partnership agreement, except as prohibited under the Uniform Partnership Act of 1994. (CORP § 16103)
- 9) Specifies that physicians and surgeons may only form partnerships with other physicians and surgeons and DPMs may only form partnerships with other DPMs, except as specified. (BPC § 2416)

10) Authorizes partnerships that include both physicians and surgeons and DPMs if both of the following conditions are satisfied:

- a) A majority of the partners and partnership interests in the professional partnership are physicians and surgeons or osteopathic physicians and surgeons. (BPC § 2416(a))
- b) Partners who are not a physician and surgeon do not practice in the partnership or vote on partnership matters related to the practice of medicine that are outside the partner's scope of practice. All partners may vote on general administrative, management, and business matters. (BPC § 2416(b))

**THIS BILL:**

1) Deletes the following two limitations on joint DPM and physician partnerships:

- a) That the majority of the partners in the partnership are physicians and that the majority of the partnership interest belongs to physicians.
- b) That a non-physician partner may not practice medicine in the partnership or vote on partnership matters related to the practice of medicine to the extent either of those is outside the partner's scope of practice.

**FISCAL EFFECT:** Unknown. This bill is keyed fiscal by the Legislative Counsel.

**COMMENTS:**

**Purpose.** This bill is sponsored by the *California Podiatric Medical Association*. According to the author, "Medical practices often bring together different specialties to provide more holistic care to patients. In regulating how these partnerships and businesses are formed, safeguards have been put in place to ensure non-medically trained partners do not influence the practice, including how patient care is delivered. Despite their extensive training, Doctors of Podiatric Medicine are unfairly prevented from partnering with physicians on an equal footing when they agree to form a practice. [This bill] removes this impediment and allows podiatrists and physicians to have equal ownership in medical practices."

**Background.** DPMs are licensed healthcare providers who practice medicine on the human foot, including the ankle and tendons that insert into the foot. They may also provide nonsurgical and limited surgical treatment of the muscles and tendons of the leg governing the functions of the foot, including wound care for ulcers. This aspect of medicine is known as podiatric medicine. Because podiatric health conditions can be complex, or be the result of a broader health condition, they will work closely with physicians in the event treatment is needed beyond the DPM scope of practice.

**DPM and Physician Professional Partnerships.** Before 1995, the Medical Practice Act prohibited DPMs and physicians from forming partnerships together—they were only authorized to provide services as DPMs in a partnership or as physicians in a partnership. As a result, podiatrists and physicians could not form partnerships that focused on podiatry but also provided ancillary medical services, even minor ones. The podiatry partnership would have to refer the patient to a physician.



The only way to provide this type of service together was to form a physician-owned medical corporation. At the time, there was concern that joint partnerships could result in non-physician control of a physician's practice. In general, the argument against that control, which is often called the "corporate practice of medicine," is that a healthcare business controlled by non-physicians could overrule physician judgment and expertise in favor of business interests, such as efficiency or profit, resulting in a lower quality of care.

Professional corporations currently avoid that concern because of the limitations under the Moscone-Knox Professional Corporations Act. The act only authorizes professional corporations to render services within a single profession, such as medicine or podiatry, and requires the majority of the shares to be owned by licensees of the principal profession.

As a result, podiatrists can provide podiatric medicine within a medical corporation that focuses on podiatry, but the corporation must still be majority owned by physicians. And, while physicians can also provide services as part of a podiatric medical corporation, they would not technically be allowed to provide any services outside of the scope of podiatric medicine.

In 1995, the Medical Board of California sponsored legislation allowing for physicians and DPMs to form partnerships together, but included the limitation that the majority of the partners be physicians and prohibited DPMs from voting on matters outside of their scope of practice. In the committee analysis at the time, the limitations were noted as being included to address concerns around the lay control of a physician's practice.

This bill would remove those limitations. The change would allow for DPMs and physicians to form partnerships that have DPM majorities.

**Prior Related Legislation.** SB 609 (Rosenthal), Chapter 708, Statutes of 1995, among other things, authorized physicians and podiatrists to form partnerships together and established the restrictions on podiatry partners this bill would delete.

SB 1558 (Keene), Chapter 1313, Statutes of 1980, revised and recast the Medical Practice Act, including the limitation against physicians and DPMs forming partnerships together.

## **ARGUMENTS IN SUPPORT:**

The *California Podiatric Medical Association* (sponsor) writes in support:

Current law specifically authorizes MD/DO's and DPM's to create partnerships. However, despite the advancements in the podiatric profession, the law further prohibits DPM's from having more than 49% ownership of that partnership. This means a DPM can never be an equal partner, even if both parties agree that is the best interest of the practice. For example, if a group of three podiatric surgeons wanted to open a wound care center and partner with a vascular surgeon, they would need to give the vascular surgeon 51% ownership of the center to comply with existing law, even if the services provided were primarily podiatric.

This ownership restriction limits the DPM's involvement in key administrative decisions, including staffing, purchasing real estate, insurance credentialing, and acquiring business loans, and has served as a deterrent for DPM's to enter such arrangements.

This inequity disincentives the formation of these partnerships which only disrupts the continuity of care. If DPM's are deterred from partnering with MD/DO's, that partnership would not benefit from the many services they specialize (wound care, diabetic foot ulcer treatment, etc.)....

Once licensed, DPMs can independently diagnose and treat human ailments within their scope of practice. This scope includes performing surgery in ambulatory and hospital settings, taking x-rays, writing prescriptions, and ordering diagnostic studies. Other than the fact that podiatric medicine has a scope of practice that is defined by law, managing a podiatric practice is no different from managing any other MD or DO surgical specialty practice. Anything that impacts medical practice will always impact the podiatric practice in the same way. Therefore, specifically restricting the size of the ownership interest in a professional partnership between a physician and surgeon and a podiatrist no longer makes sense.

### ARGUMENTS IN OPPOSITION:

None on file

### IMPLEMENTATION ISSUES:

*Orphan Reference to Osteopathic Physicians and Surgeons.* In 1995, a reference to osteopathic physicians and surgeons was added to the code section this bill is amending. While the current version of this bill deletes that reference, the amendments at the end of this analysis add it back. There is no other reference to osteopathic physicians and surgeons in the code section, and the Medical Practice Act treats osteopathic physicians and surgeons the same as non-osteopathic physicians and surgeons. If this bill passes this committee, the author may wish to amend the bill to include osteopathic physicians and surgeons where they are left out or delete the lone reference for consistency.

### AMENDMENTS:

To (1) address concerns raised by stakeholders about the corporate practice of medicine by non-physicians or non-DPMs and the lack of clarity around scope of practice and (2) update an erroneous cross-reference to a repealed Corporations Code section, the bill should be amended as follows:

**2416. (a)** Physicians and surgeons and doctors of podiatric medicine may conduct their professional practices in a partnership or group of physicians and surgeons or a partnership or group of doctors of podiatric medicine, respectively.

**(b)** Physicians and surgeons and doctors of podiatric medicine may establish a professional partnership that includes both physicians and surgeons and doctors of podiatric ~~medicine~~ *medicine, if both of the following conditions are satisfied:*

*(a) A majority of the partners and partnership interests in the professional partnership are physicians and surgeons, osteopathic physicians and surgeons, or doctors of podiatric medicine.*

*(b) Notwithstanding Chapter 5 (commencing with Section 16100) of Title 2 of the Corporations Code, a partner who is not a physician and surgeon or a doctor of podiatric medicine, shall not practice in the partnership or vote on partnership matters related to the practice of medicine, or the practice of podiatric medicine, respectively, that are outside the partner's scope of practice. All partners may vote on general administrative, management, and business matters.*

**REGISTERED SUPPORT:**

California Podiatric Medical Association (sponsor)

**REGISTERED OPPOSITION:**

None on file

**Analysis Prepared by:** Vincent Chee / B. & P. / (916) 319-3301

Date of Hearing: April 19, 2023

**ASSEMBLY COMMITTEE ON APPROPRIATIONS**

Chris Holden, Chair

AB 834 (Irwin) – As Amended March 29, 2023

Policy Committee: Business and Professions

Vote: 18 - 0

Urgency: No

State Mandated Local Program: Yes

Reimbursable: No

**SUMMARY:**

This bill allows doctors of podiatric medicine (DPMs) to own an equal or majority interest in a professional partnership with physicians, and prohibits a partner who is not a physician or DPM from practicing in the partnership or voting on partnership matters that are outside the partner's scope of practice.

**FISCAL EFFECT:**

Minor and absorbable costs to the Medical Board of California and the Osteopathic Medical Board, and no costs to the Podiatric Medical Board.

**COMMENTS:**

1) **Purpose.** According to the California Podiatric Medical Association, sponsor of this bill:

Current law...authorizes [physicians] and DPM's to create partnerships. However,...the law...prohibits DPM's from having more than 49% ownership of that partnership. This means a DPM can never be an equal partner, even if both parties agree that is the best interest of the practice. For example, if a group of three podiatric surgeons wanted to open a wound care center and partner with a vascular surgeon, they would need to give the vascular surgeon 51% ownership of the center to comply with existing law, even if the services provided were primarily podiatric.

This ownership restriction limits the DPM's involvement in key administrative decisions, including staffing, purchasing real estate, insurance credentialing, and acquiring business loans, and has served as a deterrent for DPM's to enter such arrangements....This inequity disincentivizes the formation of these partnerships, which only disrupts the continuity of care.

2) **Background.** SB 1558 (Keene), Chapter 1313, Statutes of 1980, amended the Medical Practice Act to prohibit DPMs and physicians from forming partnerships together. As a result, podiatrists and physicians could not form partnerships that focused on podiatry but also provided ancillary medical services.

In 1995, the Medical Board of California sponsored SB 609 (Rosenthal), Chapter 708, Statutes of 1995, which allowed physicians and DPMs to form partnerships together, but required the majority of the partners to be physicians and prohibited DPMs from voting on matters outside of their scope of practice. The requirement of a physician majority was included to address concerns around non-physician control of a physician's practice, often called the “corporate practice of medicine.” The argument against a healthcare business being controlled by non-physicians is generally that a lay person could overrule physician judgment and expertise in favor of business interests, such as efficiency or profit, resulting in lower quality care.

**Analysis Prepared by:** Allegra Kim / APPR. / (916) 319-2081

**SB-544 Bagley-Keene Open Meeting Act:  
teleconferencing.**<sup>(2023-2024)</sup>

ENROLLED SEPTEMBER 18, 2023

PASSED IN SENATE SEPTEMBER 14, 2023

PASSED IN ASSEMBLY SEPTEMBER 13, 2023

AMENDED IN ASSEMBLY SEPTEMBER 08, 2023

AMENDED IN ASSEMBLY AUGUST 14, 2023

AMENDED IN SENATE APRIL 27, 2023

AMENDED IN SENATE MARCH 20, 2023

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

**SENATE BILL**

**NO. 544**

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**Introduced by Senator Laird**

**February 15, 2023**

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An act to amend Section 11124 of, to amend, repeal, and add Section 11123.5 of, and to add and repeal Section 11123.2 of, the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 544, Laird. Bagley-Keene Open Meeting Act: teleconferencing.

Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act authorizes meetings through teleconference subject to specified requirements, including, among others, that the state body post agendas at all teleconference locations, that each teleconference location be identified in the notice and agenda of the meeting or proceeding, that each teleconference location be accessible to the public, that the agenda provide an opportunity for members of the public to address the state body directly at each teleconference location, and that at least one member of the state body be physically present at the location specified in the notice of the meeting.

This bill would enact an additional, alternative set of provisions under which a state body may hold a meeting by teleconference. The bill would require at least one member of the state body to be physically present at each teleconference location, defined for these purposes as a physical location that is accessible to the public and from which members of the public may participate in the meeting. The bill would, under specified circumstances, authorize a member of the state body to participate from a remote location, which would not be required to be accessible to the public and which the bill would prohibit the notice and agenda from disclosing. Specifically, the bill would authorize a member's remote participation if the other members who are physically present at the same teleconference location constitute a majority of the state body. The bill would also authorize a member's remote participation if the member has a need related to a disability and notifies the state body, as specified. Under the bill, that member would be counted toward the majority of members required to be physically present at the same teleconference location. The bill would require a member who participates from a remote location to disclose whether any other individuals 18 years of age or older are present in the room at the remote location with the member and the general nature of the member's relationship with those individuals.

This bill would require the members of the state body to visibly appear on camera during the open portion of a meeting that is publicly accessible via the internet or other online platform unless the appearance would be technologically impracticable, as specified. The bill would require a member who does not appear on camera due to challenges with internet connectivity to announce the reason for their nonappearance when they turn off their camera.

This bill would also require the state body to provide a means by which the public may remotely hear audio of the meeting, remotely observe the meeting, remotely address the body, or attend the meeting by providing on the posted agenda a teleconference telephone number, an internet website or other online platform, and a physical address for each teleconference location. The bill would require the telephonic or online means provided to the public to access the meeting to be equivalent to the telephonic or online means provided to a member of the state body participating remotely. The bill would require any notice required by the act to specify the applicable teleconference telephone number, internet website or other online platform, and physical address of each teleconference location, as well as any other information indicating how the public can access the meeting remotely and in person. If the state body allows members of the public to observe and address the meeting telephonically or otherwise electronically, the bill would require the state body to implement and advertise, as prescribed, a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, as specified. The bill would impose requirements consistent with the above-described existing law provisions, including a requirement that the agenda provide an opportunity for members of the public to address the state body directly, as specified. The bill would entitle members of the public to exercise their right to directly address the state body during the

teleconferenced meeting without being required to submit public comments before the meeting or in writing.

This bill would provide that it does not affect prescribed existing notice and agenda requirements and would require the state body to post an agenda on its internet website and, on the day of the meeting, at each teleconference location designated in the notice of the meeting.

This bill would require the state body, upon discovering that a means of remote participation required by the bill has failed during the meeting and cannot be restored, to end or adjourn the meeting in accordance with prescribed adjournment and notice provisions, including information about reconvening.

Existing law authorizes a multimember state advisory body to hold an open meeting by teleconference pursuant to an alternative set of provisions that are in addition to the above-described provisions generally applicable to state bodies. Under those alternative provisions, a quorum of the members of the state advisory body must be in attendance at the primary physical meeting location, as specified, and all decisions taken during the meeting must be by rollcall vote.

This bill would remove the rollcall vote requirement and the requirement for a quorum in attendance at the primary physical meeting location. The bill, instead, would require at least one staff member of the state body to be present at the primary physical meeting location. The bill would require the members of the state body to visibly appear on camera during the open portion of a meeting that is publicly accessible via the internet or other online platform unless the appearance would be technologically impracticable, as specified. The bill would require a member who does not appear on camera due to challenges with internet connectivity to announce the reason for their nonappearance when they turn off their camera.

This bill would repeal the above-described provisions on January 1, 2026.

Existing law prohibits requiring a person, as a condition of attendance at a meeting of a state body, to register their name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to their attendance. Existing law requires an attendance list, register, questionnaire, or other similar document posted at or near the entrance to the room where the meeting is to be held, or circulated to persons present during the meeting, to state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

This bill would exempt from those provisions an internet website or other online platform that may require the submission of information to log into a teleconferenced meeting. The bill would permit a person to submit a pseudonym or other anonymous information when using the internet website or other online platform to attend the meeting.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

## **DIGEST KEY**

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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**BILL TEXT****THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS  
FOLLOWS:****SECTION 1.**

Section 11123.2 is added to the Government Code, to read:

**11123.2.**

(a) For purposes of this section, the following definitions apply:

(1) "Teleconference" means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video.

(2) "Teleconference location" means a physical location that is accessible to the public and from which members of the public may participate in the meeting.

(3) "Remote location" means a location from which a member of a state body participates in a meeting other than a teleconference location.

(4) "Participate remotely" means participation by a member of the body in a meeting at a remote location other than a teleconference location designated in the notice of the meeting.

(b) (1) In addition to the authorization to hold a meeting by teleconference pursuant to subdivision (b) of Section 11123 and Section 11123.5, a state body may hold an open or closed meeting by teleconference as described in this section, provided the meeting complies with all of this section's requirements and, except as set forth in this section, it also complies with all other applicable requirements of this article relating to the specific type of meeting.

(2) This section does not limit or affect the ability of a state body to hold a teleconference meeting under another provision of this article, including Sections 11123 and 11123.5.

(c) The portion of the teleconferenced meeting that is required to be open to the public shall be visible and audible to the public at each teleconference location.

(d) (1) The state body shall provide a means by which the public may remotely hear audio of the meeting, remotely observe the meeting, remotely address the body, or attend the meeting by providing on the posted agenda a teleconference telephone number, an internet website or other online platform, and a physical address for each teleconference location. The telephonic or online means provided to the public to access the meeting shall be equivalent to the telephonic or online means provided to a member of the state body participating remotely.

(2) The applicable teleconference telephone number, internet website or other online platform, and physical address of each teleconference location, as well as any other information indicating how the public can access the meeting remotely and in person, shall be specified in any notice required by this article.

(3) If the state body allows members of the public to observe and address the meeting telephonically or otherwise electronically, the state body shall do both of the following:

(A) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with

Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(B) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment.

(e) This section does not prohibit a state body from providing members of the public with additional locations from which the public may observe or address the state body by electronic means, through either audio or both audio and video.

(f) (1) The agenda shall provide an opportunity for members of the public to address the state body directly pursuant to Section 11125.7.

(2) Members of the public shall be entitled to exercise their right to directly address the state body during the teleconferenced meeting without being required to submit public comments before the meeting or in writing.

(g) The state body shall post the agenda on its internet website and, on the day of the meeting, at each teleconference location.

(h) This section does not affect the requirement prescribed by this article that the state body post an agenda of a meeting in accordance with the applicable notice requirements of this article, including Section 11125, requiring the state body to post an agenda of a meeting at least 10 days in advance of the meeting, Section 11125.4, applicable to special meetings, and Sections 11125.5 and 11125.6, applicable to emergency meetings.

(i) At least one member of the state body shall be physically present at each teleconference location.

(j) (1) Except as provided in paragraph (2), a majority of the members of the state body shall be physically present at the same teleconference location. Additional members of the state body in excess of a majority of the members may attend and participate in the meeting from a remote location. A remote location is not required to be accessible to the public. The notice and agenda shall not disclose information regarding a remote location.

(2) A member attending and participating from a remote location may count toward the majority required to hold a teleconference if both of the following conditions are met:

(A) The member has a need related to a physical or mental disability, as those terms are defined in Sections 12926 and 12926.1, that is not otherwise reasonably accommodated pursuant to the federal Americans with Disability Act of 1990 (42 U.S.C. Sec. 12101 et seq.).

(B) The member notifies the state body at the earliest opportunity possible, including at the start of a meeting, of their need to participate remotely, including providing a general description of the circumstances relating to their need to participate remotely at the given meeting.

(3) If a member notifies the body of the member's need to attend and participate remotely pursuant to paragraph (2), the body shall take action to approve the exception and shall request a general description of the circumstances relating to the member's need to participate remotely at the meeting, for each meeting in which the member seeks to participate remotely. The body shall not require the member to provide a general description that exceeds 20 words or to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code).

(4) If a member of the state body attends the meeting by teleconference from a remote location, the member shall disclose whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

(k) (1) Except as provided in paragraph (2), the members of the state body shall visibly appear on camera during the open portion of a meeting that is publicly accessible via the internet or other online platform.

(2) The visual appearance of a member of the state body on camera may cease only when the appearance would be technologically impracticable, including, but not limited to, when the member experiences a lack of reliable broadband or internet connectivity that would be remedied by joining without video, or when the visual display of meeting materials, information, or speakers on the internet or other online platform requires the visual appearance of a member of a state body on camera to cease.

(3) If a member of the state body does not appear on camera due to challenges with internet connectivity, the member shall announce the reason for their nonappearance when they turn off their camera.

(l) All votes taken during the teleconferenced meeting shall be by rollcall.

(m) The state body shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(n) The portion of the teleconferenced meeting that is closed to the public shall not include the consideration of any agenda item being heard pursuant to Section 11125.5.

(o) Upon discovering that a means of remote public access and participation required by subdivision (d) has failed during a meeting and cannot be restored, the state body shall end or adjourn the meeting in accordance with Section 11128.5. In addition to any other requirements that may apply, the state body shall provide notice of the meeting's end or adjournment on the state body's internet website and by email to any person who has requested notice of meetings of the state body by email under this article. If the meeting will be adjourned and reconvened on the same day, further notice shall be provided by an automated message on a telephone line posted on the state body's agenda, internet website, or by a similar means, that will communicate when the state body intends to reconvene the meeting and how a member of the public may hear audio of the meeting or observe the meeting.

(p) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

## **SEC. 2.**

Section 11123.5 of the Government Code is amended to read:

### **11123.5.**

(a) For purposes of this section, the following definitions apply:

(1) "Participate remotely" means participation in a meeting at a location other than the physical location designated in the agenda of the meeting.

(2) "Remote location" means a location other than the primary physical location designated in the agenda of a meeting.

(3) "Teleconference" has the same meaning as in Section 11123.

(b) In addition to the authorization to hold a meeting by teleconference pursuant to subdivision (b) of Section 11123 or Section 11123.2, any state body that is an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body may hold an open meeting by teleconference as described in this section, provided the meeting complies with all of the section's requirements and, except as set forth in this section, it also complies with all other applicable requirements of this article.

(c) A member of a state body as described in subdivision (b) who participates in a teleconference meeting from a remote location subject to this section's requirements shall be listed in the minutes of the meeting.

(d) The state body shall provide notice to the public at least 24 hours before the meeting that identifies any member who will participate remotely by posting the notice on its internet website and by emailing notice to any person who has requested notice of meetings of the state body under this article. The location of a member of a state body who will participate remotely is not required to be disclosed in the public notice or email and need not be accessible to the public. The notice of the meeting shall also identify the primary physical meeting location designated pursuant to subdivision (f).

(e) This section does not affect the requirement prescribed by this article that the state body post an agenda of a meeting at least 10 days in advance of the meeting. The agenda shall include information regarding the physical meeting location designated pursuant to subdivision (f), but is not required to disclose information regarding any remote location.

(f) A state body described in subdivision (b) shall designate the primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting, observe and hear the meeting, and participate. At least one staff member of the state body shall be present at the primary physical meeting location during the meeting. The state body shall post the agenda at the primary physical meeting location, but need not post the agenda at a remote location.

(g) When a member of a state body described in subdivision (b) participates remotely in a meeting subject to this section's requirements, the state body shall provide a means by which the public may remotely hear audio of the meeting or remotely observe the meeting, including, if available, equal access equivalent to members of the state body participating remotely. The applicable teleconference phone number or internet website, or other information indicating how the public can access the meeting remotely, shall be in the 24-hour notice described in subdivision (b) that is available to the public.

(h) (1) Except as provided in paragraph (2), the members of the state body shall visibly appear on camera during the open portion of a meeting that is publicly accessible via the internet or other online platform.

(2) The visual appearance of a member of a state body on camera may cease only when the appearance would be technologically impracticable, including, but not limited to, when the member experiences a lack of reliable broadband or internet connectivity that would be remedied by joining without video, or when the visual display of meeting materials, information, or speakers on the internet or other online platform requires the visual appearance of a member of a state body on camera to cease.

(3) If a member of the body does not appear on camera due to challenges with internet connectivity, the member shall announce the reason for their nonappearance when they turn off their camera.

(i) Upon discovering that a means of remote access required by subdivision (g) has failed during a meeting, the state body described in subdivision (b) shall end or adjourn the meeting in accordance with Section 11128.5. In addition to any other requirements that may apply, the state body shall provide notice of the meeting's end or adjournment on its internet website and by email to any person who has requested notice of meetings of the state body under this article. If the meeting will be adjourned and reconvened on the same day, further notice shall be provided by an automated message on a telephone line posted on the state body's agenda, or by a similar means, that will communicate when the state body intends to reconvene the meeting and how a member of the public may hear audio of the meeting or observe the meeting.

(j) This section does not limit or affect the ability of a state body to hold a teleconference meeting under another provision of this article.

(k) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

### **SEC. 3.**

Section 11123.5 is added to the Government Code, to read:

#### **11123.5.**

(a) In addition to the authorization to hold a meeting by teleconference pursuant to subdivision (b) of Section 11123, any state body that is an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body may hold an open meeting by teleconference as described in this section, provided the meeting complies with all of the section's requirements and, except as set forth in this section, it also complies with all other applicable requirements of this article.

(b) A member of a state body as described in subdivision (a) who participates in a teleconference meeting from a remote location subject to this section's requirements shall be listed in the minutes of the meeting.

(c) The state body shall provide notice to the public at least 24 hours before the meeting that identifies any member who will participate remotely by posting the notice on its internet website and by emailing notice to any person who has requested notice of meetings of the state body under this article. The location of a member of a state body who will participate remotely is not required to be disclosed in the public notice or email and need not be accessible to the public. The notice of the meeting shall also identify the primary physical meeting location designated pursuant to subdivision (e).

(d) This section does not affect the requirement prescribed by this article that the state body post an agenda of a meeting at least 10 days in advance of the meeting. The agenda shall include information regarding the physical meeting location designated pursuant to subdivision (e), but is not required to disclose information regarding any remote location.

(e) A state body described in subdivision (a) shall designate the primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting and participate. A quorum of the members of the state body shall be in attendance at the primary physical meeting location, and members of the state body participating remotely shall not count towards establishing a quorum. All decisions taken during a meeting by teleconference shall be by rollcall vote. The state body shall post the agenda at the primary physical meeting location, but need not post the agenda at a remote location.

(f) When a member of a state body described in subdivision (a) participates remotely in a meeting subject to this section's requirements, the state body shall provide a means by which the public may

remotely hear audio of the meeting or remotely observe the meeting, including, if available, equal access equivalent to members of the state body participating remotely. The applicable teleconference phone number or internet website, or other information indicating how the public can access the meeting remotely, shall be in the 24-hour notice described in subdivision (a) that is available to the public.

(g) Upon discovering that a means of remote access required by subdivision (f) has failed during a meeting, the state body described in subdivision (a) shall end or adjourn the meeting in accordance with Section 11128.5. In addition to any other requirements that may apply, the state body shall provide notice of the meeting's end or adjournment on its internet website and by email to any person who has requested notice of meetings of the state body under this article. If the meeting will be adjourned and reconvened on the same day, further notice shall be provided by an automated message on a telephone line posted on the state body's agenda, or by a similar means, that will communicate when the state body intends to reconvene the meeting and how a member of the public may hear audio of the meeting or observe the meeting.

(h) For purposes of this section:

(1) "Participate remotely" means participation in a meeting at a location other than the physical location designated in the agenda of the meeting.

(2) "Remote location" means a location other than the primary physical location designated in the agenda of a meeting.

(3) "Teleconference" has the same meaning as in Section 11123.

(i) This section does not limit or affect the ability of a state body to hold a teleconference meeting under another provision of this article.

(j) This section shall become operative on January 1, 2026.

#### **SEC. 4.**

Section 11124 of the Government Code is amended to read:

##### **11124.**

(a) No person shall be required, as a condition to attendance at a meeting of a state body, to register their name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to their attendance.

(b) If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

(c) This section does not apply to an internet website or other online platform that may require the submission of information to log into a teleconferenced meeting, provided, however, that a person required to submit such information shall be permitted to submit a pseudonym or other anonymous information when using the internet website or other online platform to attend the meeting.

#### **SEC. 5.**

The Legislature finds and declares that Sections 1, 2, 3, and 4 of this act, which add and repeal Section 11123.2 of, amend, repeal, and add Section 11123.5 of, and amend Section 11124 of, the

Government Code, impose a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

(a) By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, including from the member's private home or hotel room, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

(b) During the COVID-19 public health emergency, audio and video teleconference were widely used to conduct public meetings in lieu of physical location meetings, and those public meetings have been productive, increased public participation by all members of the public regardless of their location and ability to travel to physical meeting locations, increased the pool of people who are able to serve on these bodies, protected the health and safety of civil servants and the public, and have reduced travel costs incurred by members of state bodies and reduced work hours spent traveling to and from meetings.

(c) Conducting audio and video teleconference meetings enhances public participation and the public's right of access to meetings of the public bodies by improving access for individuals who often face barriers to physical attendance.

**SENATE RULES COMMITTEE**

SB 544

Office of Senate Floor Analyses

(916) 651-1520 Fax: (916) 327-4478

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**UNFINISHED BUSINESS**

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Bill No: SB 544

Author: Laird (D)

Amended: 9/8/23

Vote: 21

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**SENATE GOVERNMENTAL ORG. COMMITTEE:** 13-1, 4/11/23**AYES:** Dodd, Wilk, Alvarado-Gil, Archuleta, Ashby, Bradford, Glazer, Nguyen, Ochoa Bogh, Padilla, Portantino, Roth, Rubio**NOES:** Jones**NO VOTE RECORDED:** Seyarto**SENATE JUDICIARY COMMITTEE:** 9-0, 4/25/23**AYES:** Umberg, Wilk, Allen, Ashby, Durazo, Laird, Min, Niello, Wiener**NO VOTE RECORDED:** Caballero, Stern**SENATE APPROPRIATIONS COMMITTEE:** Senate Rule 28.8**SENATE FLOOR:** 26-3, 5/15/23**AYES:** Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Cortese, Dodd, Durazo, Glazer, Gonzalez, Hurtado, Laird, Limón, McGuire, Min, Newman, Padilla, Portantino, Roth, Skinner, Stern, Umberg, Wahab, Wilk**NOES:** Caballero, Jones, Wiener**NO VOTE RECORDED:** Alvarado-Gil, Dahle, Eggman, Grove, Menjivar, Nguyen, Niello, Ochoa Bogh, Rubio, Seyarto, Smallwood-Cuevas**ASSEMBLY FLOOR:** 50-15, 9/13/23 - See last page for vote

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**SUBJECT:** Bagley-Keene Open Meeting Act: teleconferencing**SOURCE:** California Commission on Aging

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**DIGEST:** This bill revises and repeals, until January 1, 2026, certain teleconference requirements under the Bagley-Keene Open Meeting Act (Bagley-Keene), which requires all meetings of a state body be open and public.



*Assembly Amendments* add a sunset date, require members of the state body to visibly appear on camera during the open portion of the meeting, require at least one member of the state body to be physically present at each teleconference location, and authorize a member's remote participation if the member has a need related to a disability and notifies the state body, as specified.

## ANALYSIS:

Existing law:

- 1) Requires, pursuant to Bagley-Keene, with specified exceptions, that all meetings of a state body be open and public and all person be permitted to attend any meeting of a state body.
- 2) Authorizes a state body to elect to conduct a meeting or proceeding by teleconference, and requires that state agency to post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body.
- 3) Requires each teleconference location to be identified in the notice and agenda of the meeting or proceeding, and each teleconference location to be accessible to the public.
- 4) Requires the agenda to provide an opportunity for members of the public to address the state body directly at each teleconference location, and requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.

This bill:

- 1) Provides, in addition to the authorization to hold a meeting by teleconference pursuant to current Bagley-Keene provisions, a state body may hold an open or closed meeting by teleconference, as described, provided the meeting complies with specified requirements:
  - a) A majority of the members of the state body shall be physically present at the same teleconference location. Additional members of the state body in excess of a majority of the members may attend and participate in the

meeting from a remote location. A remote location is not required to be accessible to the public. The notice and agenda shall not disclose information regarding a remote location.

- b) Authorize a member's remote participation, if the member has a need related to a disability and notifies the state body, as specified. Under the bill, that member would be counted toward the majority of members required to be physically present at the same teleconference location.
  - c) If a member of the state body attends the meeting by teleconference from a remote location, the member shall disclose whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.
  - d) The members of the state body shall visibly appear on camera during the open portion of a meeting that is publicly accessible via the internet or other online platform, as provided.
  - e) All votes taken during the teleconferenced meeting shall be by rollcall. The state body shall publicly report any action taken and the vote or abstention on that action of each member present for the action.
  - f) Upon discovering that a means of remote public access and participation required has failed during a meeting and cannot be restored, the state body shall end or adjourn the meeting, as defined.
  - g) Defines "Teleconference" to mean a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video.
  - h) Defines "Teleconference location" to mean a physical location that is accessible to the public and from which members of the public may participate in the meeting.
  - i) Defines "Remote location" to mean a location from which a member of a state body participates in a meeting other than a teleconference location.
  - j) Defines "Participate remotely" to mean participation by a member of the body in a meeting at a remote location other than a teleconference location designated in the notice of the meeting.
  - k) These specified requirements, as described, shall remain in effect until January 1, 2026, and as of that date is repealed.
- 2) Authorizes an additional means of holding a meeting by teleconference by an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body, as prescribed, under specified requirements:

- a) The location of a member of a state body who will participate remotely is not required to be disclosed in the public notice or email and need not be accessible to the public.
- b) Provides the state body shall designate the primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting, observe and hear the meeting, and participate.
- c) Provides, at least one staff member of the state body shall be present at the primary physical meeting location during the meeting. The state body shall post the agenda at the primary physical meeting location, but need not post the agenda at a remote location.
- d) States when a member of a state body participates remotely in a meeting, as defined, the state body shall provide a means by which the public may remotely hear audio of the meeting or remotely observe the meeting, including, if available, equal access equivalent to members of the state body participating remotely.
- e) Provides that the applicable teleconference phone number or internet website, or other information indicating how the public can access the meeting remotely, shall be in the 24-hour notice, as described.
- f) Provides, the members of the state body shall visibly appear on camera during the open portion of a meeting that is publicly accessible via the internet or other online platform.
- g) Defines "Participate remotely" to mean participation in a meeting at a location other than the physical location designated in the agenda of the meeting.
- h) Defines "Remote location" to means a location other than the primary physical location designated in the agenda of a meeting.
- i) Defines "Teleconference" to mean a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video.
- j) The state body shall provide notice to the public at least 24 hours before the meeting that identifies any member who will participate remotely by posting the notice on its internet website, as specified. A member of a state body who participates in a teleconference meeting from a remote location subject to this section's requirements shall be listed in the minutes of the meeting.
- k) This bill does not limit or affect the ability of a state body to hold a teleconference meeting under another provision of the Act.
- l) These specified requirements, as described, shall remain in effect until January 1, 2026, and as of that date is repealed.

- 3) Exempts from current law an internet website or other online platform that may require the submission of information to log into a teleconferenced meeting. The bill would permit a person to submit a pseudonym or other anonymous information when using the internet website or other online platform to attend the meeting.
- 4) Restates current provisions of the Bagley-Keene when the above-described requirements sunset on January 1, 2026.
- 5) Makes technical and clarifying changes.

## Background

*Purpose of the Bill.* According to the author's office, "in response to the COVID-19 pandemic and the widespread shutdown, the Governor signed an executive order to provide flexibility so state boards and commissions could continue to serve Californians remotely and safely. Although meant to be temporary, we saw significant benefits of remote meetings, such as increased participation and reduced operating costs to the state. This bill will promote equity and public participation by removing barriers to Californians that experience challenges attending physical meetings, such as people with disabilities, caretakers, seniors, low-income individuals, and those living in rural or different areas of the state. The bill will protect the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business."

*The Bagley-Keene Opening Meeting Act of 1967.* Bagley-Keene originated as a response to growing concerns about transparency and public involvement in the decision-making process of state agencies. Bagley-Keene aims to ensure that state boards, commissions, and agencies conduct their business openly and transparently, allowing the public to be informed and participate in the decision-making process.

Bagley-Keene generally requires state bodies to conduct their meetings openly and make them accessible to the public. The law also requires state bodies to provide advance notice of their meetings and agendas and to allow public comments on matters under consideration. The act includes certain exceptions, such as closed sessions for discussing personnel issues or pending litigation, to protect the privacy and legal interests of individuals and the state.

The act applies to state bodies, which include boards, commissions, committees, councils, and any other public agencies created by state statute or executive order, with some exceptions. The law does not apply to individual officials, advisory committees with no decision-making authority, or the California State Legislature.

*The Americans with Disabilities Act of 1990.* The ADA is a federal civil rights law that prohibits discrimination against people with disabilities in everyday activities. The ADA prohibits discrimination on the basis of disability just as other civil rights laws prohibit discrimination on the basis of race, color, sex, national origin, age, and religion. The ADA guarantees that people with disabilities have the same opportunities as everyone else to enjoy employment opportunities, purchase goods and services, and participate in state and local government programs. The ADA contains specific requirements for state and local governments to ensure equal access for people with disabilities.

*COVID-19 and Executive Order N-29-20.* On March 4, 2020, Governor Newsom proclaimed a State of Emergency in California as a result of what at the time was a novel and rapidly growing COVID-19 pandemic. Despite early efforts, the virus continued to spread. On March 17, 2020, Governor Newsom issued Executive Order (EO) N-29-20 citing the fact that strict compliance with various statutes and regulations on open meetings of state bodies would have prevented, hindered, or delayed appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

In order to practice social distancing, facilitate remote work, and protect the population against the COVID-19 pandemic, EO N-29-20 authorized a state body to hold public meetings via teleconferencing. The executive order required public meetings be accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body or state body. All requirements in both the Bagley-Keene Open Meeting Act and the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting were temporarily waived.

*Temporary Teleconferencing Extension in 2022.* SB 189 (Committee on Budget and Fiscal Review, Chapter 48, Statutes of 2022), among other things, provided a temporary statutory extension for state bodies in California to hold public meetings through teleconferencing, such as phone or video calls, instead of in-person gatherings. The law suspends certain requirements that would typically apply to

in-person meetings, such as having a physical location for the public to attend and providing access to all remote teleconference locations until July 1, 2023.

In order to maintain accessibility and public participation in these remote meetings, state bodies must follow certain guidelines. They must provide advance notice of the meetings and include information on how the public can observe and participate in them, such as by offering public comment. Additionally, state bodies must establish procedures to accommodate people with disabilities, in accordance with the ADA.

State bodies are encouraged to use their best judgment when holding teleconferenced meetings, and to make an effort to follow the other provisions of Bagley-Keene as closely as possible. This helps ensure that these remote meetings remain transparent and accessible to the public. This section of the law is temporary, set to expire on July 1, 2023. After that date, the suspended requirements will come back into effect, and state bodies will need to return to following the standard provisions of Bagley-Keene.

*Assembly Amendments.* This bill was amended upon passage from the Assembly Governmental Organization Committee to address concerns raised in that committee's analysis and by opponents. Amendments include imposition of the January 1, 2026, sunset date to "allow further analysis of the implementation and overall impact of this and previous Bagley-Keene waivers."

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

According to the Assembly Appropriations Committee, likely cost savings across state bodies to be able to continue a modified version of the now-expired teleconference meeting requirements authorized by executive order during the COVID-19 pandemic and under SB 189 (Committee on Budget and Fiscal Review), Chapter 48, Statutes of 2022. Some state bodies note that this bill's physical presence requirements would result in less cost savings than what was realized under the expired policy. For example, the physical location must have sufficient technology to connect to the teleconference system and there may be other rental, equipment, or travel costs to meet in-person requirements. However, state bodies are not required to hold meetings by teleconference and incur such hybrid meeting costs.

**SUPPORT:** (Verified 9/12/23)

California Commission on Aging (source)

**AARP**

Advisory Council for Sourcewise

Agency on Aging – Area 4

Alcoholic Beverage Control Appeals Board

Alzheimer's Association State Policy Office

Association of California State Employees With Disabilities

Board of Barbering and Cosmetology

Board of Behavioral Sciences

Board of Registered Nursing

California Acupuncture Board

California Architects Board

California Association of Area Agencies on Aging

California Board of Accountancy

California Foundation for Independent Living Centers

California Senior Legislature

California State Board of Optometry

California State Board of Pharmacy

California Structural Pest Control Board

Dental Board of California

Dental Hygiene Board of California

Disability Rights California

Disability Rights Education & Defense Fund

Health Officers Association of California

Little Hoover Commission

Medical Board of California

Osteopathic Medical Board of California

Physical Therapy Board of California

Physician Assistant Board

SCDD

Seamless Bay Area

Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board

State Bar of California

The Veterinary Medical Board

**OPPOSITION:** (Verified 9/12/23)

ACLU California Action

American Chemistry Council

American Composites Manufacturers Association

California Association of Winegrape Growers

Californians Aware

California Broadcasters Association  
California Common Cause  
California Manufacturers & Technology Association  
California News Publishers Association  
Californians Aware: the Center for Public Forum Rights  
CCNMA Latino Journalists of California  
First Amendment Coalition  
Glass Packaging Institute  
Greater Los Angeles Pro Chapter of the Society of Professional Journalists  
Howard Jarvis Taxpayers Association  
Institute of Governmental Advocates  
Media Alliance  
National Press Photographers Association  
NLGJA: Association of LGBTQ+ Journalists, Los Angeles Chapter  
Orange County Press Club  
Pacific Media Workers Guild, News Guild-Communications Workers of America  
Local 39521  
Radio Television Digital News Association  
San Diego Pro Chapter of The Society of Professional Journalists  
San Franciscans for Sunshine  
Society of Professional Journalists, Northern California Chapter, Freedom of  
Information Committee

**ARGUMENTS IN SUPPORT:** In support of the bill, the California Commission on Aging writes that, “Bagley-Keene currently allows for remote teleconference participation by members of a board or commission. However, the Act requires that all teleconference locations be posted to the agenda. As a result, members who must attend the meeting by teleconference must post the address of their private residence or office in order to participate. Additionally, Bagley-Keene requires that the locations are accessible to the public. This means that state body members who are required to teleconference from their home must allow public access to their private residence and must ensure that their home is in compliance with the Americans with Disabilities Act.”

Further, “SB 544 seeks to extend the provisions in the Executive Order by eliminating the requirement to post addresses of all teleconference locations in Bagley-Keene. Teleconference meetings will be required to post a teleconference telephone number, an internet website or other online platform, which the public can access and participate remotely. State bodies will be required to post at least one physical location where the public can participate in the meeting if they are



unable to access the meeting through teleconference, and one staff member will be required to be present at the physical location.”

Finally, “[t]his bill will increase transparency and promote public participation in State government by expanding the pool of candidates interested in serving. Older adults and individuals with disabilities will no longer be barred from attending meetings or participating in State government simply because they are limited from attending physically. The bill will also remove impediments for low-income, rural California residents, and caregivers who find it challenging or impossible to travel to one physical location.”

**ARGUMENTS IN OPPOSITION:** In opposition to the bill, a coalition of business groups led by the Glass Packaging Institute writes that, “SB 544 continues a slow diminution of California’s landmark open meeting and government accountability laws. Government decision making, debates, and voting should be done in person and at a single location so the public can petition and address the government body in one place. With the end of the pandemic, there is no adequate public policy reason to continue to allow remote meeting participation and voting by state boards and commissions are making consequential decisions that quite literally affect the life, liberty, and property of business and individuals. Those decisions should be made face-to-face, in full view of the public, media, and affected parties. It simply is not enough to sit in front of a computer screen at home or other undisclosed remote location while making such important decisions.”

Further, “[w]hile the pandemic taught us that remote work and work from home is technologically feasible, it also showed that it is not an ideal situation for government decision-making and advocacy. Remote participation eliminates eye-to-contact, discourages back and forth dialogue during debates, and stifles pre and post meeting discussions. The stated need for this bill is that the convenience of remote participation and voting by board members will lead to more participation in government decision-making by those who will be making decisions on behalf of government. This is not a path forward to ensure a transparent and accountable democracy.”

ASSEMBLY FLOOR: 50-15, 9/13/23

AYES: Addis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Mike Fong, Friedman, Garcia, Gipson, Grayson, Haney, Hart, Irwin, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, McCarty, McKinnor, Muratsuchi, Stephanie

Nguyen, Ortega, Pacheco, Papan, Pellerin, Ramos, Rendon, Reyes, Luz Rivas, Rodriguez, Santiago, Schiavo, Soria, Ting, Valencia, Waldron, Ward, Weber, Wilson, Wood, Robert Rivas

NOES: Alanis, Chen, Megan Dahle, Dixon, Essayli, Vince Fong, Gallagher,

Hoover, Mathis, Joe Patterson, Petrie-Norris, Quirk-Silva, Sanchez, Ta, Wallis

NO VOTE RECORDED: Aguiar-Curry, Bonta, Connolly, Davies, Flora, Gabriel, Holden, Jackson, Lackey, Maienschein, Jim Patterson, Blanca Rubio, Villapudua, Wicks, Zbur

Prepared by: Brian Duke / G.O. / (916) 651-1530  
9/14/23 12:01:04

**\*\*\*\*\* END \*\*\*\*\***

# **SB 544**

## **Teleconference**

### **Meeting Highlights**

\*Note: This slideshow contains a summary of some of the main highlights relating to possible new teleconference rules proposed in Senate Bill 544. Please consult SB 544 for the full text of the bill.

# New Option For All State Bodies: Board member participation

- Majority of members must be at the same publicly-accessible teleconference site. (Subd. (j)(1).)
- Members above a majority can participate in meetings from private, non-public sites. (Subd. (j)(1).)
- Members at private sites must disclose if other people 18+ are also there and the general nature of the relationship. (Subd. (j)(4).)

# New Option For All State Bodies: Camera Requirements

- All members must visibly appear on camera. (Subd. (k)(1).)
- EXCEPTIONS: Appearance on camera not required when “technologically impracticable,” including:
  - (1) When there’s a lack of reliable internet connectivity that would be remedied by eliminating video.
  - (2) When the visual display of meeting information, materials or other speakers requires the members’ visual appearance to cease. (Subd. (k).)

# New Option For All State Bodies: Public Participation

- There must be a way for the public to attend and participate virtually in the meeting (i.e., telephonically, WebEx or Zoom). (Subd. (d)(1).)
- The public must also be able to attend at publicly-accessible teleconference sites. (Subds. (a)(2), (f)(1).)
- The meeting must be audible and visible at publicly-accessible teleconference sites. (Subd. (c).)

# New Option for Advisory Bodies Only: Member Participation

- There must be at least one publicly-accessible site where the public can attend and participate in the meeting. (Subd. (f).)
- At least one staff member must be present at the site. (Subd. (f).)
- All advisory body members may participate from private, non-public locations. (See subd. (f).)
- A notice (can be the 10-day notice) must identify the advisory body members participating from private, non-public sites. (Subd. (d).)
- Members participating from private, non-public sites must be listed in meeting minutes. (Subd. (c).)

# New Option for Advisory Bodies Only: Camera Requirements

- For WebEx/Zoom meetings, all members must visibly appear on camera. (Subd. (h)(1).)
- EXCEPTIONS: Appearance on camera not required when “technologically impracticable,” including:
  - (1) When there’s a lack of reliable internet connectivity that would be remedied by eliminating video.
  - (2) When the visual display of meeting information, materials or other speakers requires the members’ visual appearance to cease. (Subd. (h).)



# New Option for Advisory Bodies Only: Public Participation

- There must be a way for the public to remotely access the meeting. (Subd. (g).)
- The public must also be able to attend and participate at one publicly-accessible site. (Subd. (f).)

**Questions?**